

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|--------------------------------|
| WILLIAM PENNEWELL, | § |
| | § No. 587, 2009 |
| Defendant Below- | § |
| Appellant, | § |
| | § Court Below—Superior Court |
| v. | § of the State of Delaware |
| | § in and for New Castle County |
| STATE OF DELAWARE, | § Cr. ID No. 0701007721 |
| | § |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: November 5, 2009

Decided: November 16, 2009

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 16th day of November 2009, it appears to the Court that:

(1) On October 8, 2009, the Court received the appellant's notice of appeal from the Superior Court's August 31, 2009 order denying his motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the Superior Court's order should have been filed on or before September 30, 2009.

(2) On October 8, 2009, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his answer to the notice to show cause on October 22, 2009 and the State filed

its reply on November 5, 2009. The appellant states that he did not receive the Superior Court's order until September 9, 2009, did not have access to the law library until the last week in September, and was erroneously instructed by the prison mailroom that he could not send the notice of appeal until he confirmed that he was indigent.

(3) Time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of the Court within the applicable time period in order to be effective.² An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁴

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that this appeal must be dismissed.

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice